The Malayan Law Journal

1982

REPORTS

OF MALAYSIAN AND SINGAPORE CASES DETERMINED IN THE HIGH COURTS, THE FEDERAL COURT OF MALAYSIA, THE COURT OF APPEAL AND THE COURT OF CRIMINAL APPEAL OF SINGAPORE, AND THE PRIVY COUNCIL.

PRIVY COUNCIL REPORT

TAN CHOON CHYE v. SINGAPORE SOCIETY OF ACCOUNTANTS

[P.C. (Lord Diplock, Lord Elwyn-Jones, Lord Russell of Killowen, Lord Keith of Kinkel & Lord Brandon of Oakbrook) March 3, 1982]

[Privy Council Appeal No. 18 of 1980]

Accountants — Disciplinary Proceedings — Professional Misconduct — Accountant found guilty — Meaning of formal complaint — Accountants Act (Cap. 212), ss. 22, 32(a) & (b), 33 & 34.

Administrative Law — Disciplinary proceedings — Rules of Natural Justice.

The appellant, an accountant, was charged with "grave impropriety or infamous conduct in a professional respect." The charge arose out of a letter from the Director of Corrupt Practices Investigation Bureau to the Registrar. The appellant was alleged to have collected $50,000 from one Lou, an industrialist, and to have given the said money as a bribe to one Wan, a project officer of EDB, for considering his application for registration under the Control of Manufacture Act. The Disciplinary Committee found that the appellant had acted as an intermediary in his capacity as a practising accountant in connection with the said bribery. The appellant appealed to the High Court and in his appeal he raised four points (a) there was no formal complaint as required by section 33(1) of the Accountants Act in that the letter from the Director, C.P.I.B., was not a "formal complaint" within the meaning of the section; (b) the Disciplinary Committee had no power to hear the matter as no rules had been made in accordance with which due inquiry could be held; (c) the charge failed to give particulars of the alleged offence and (d) the item for $3,800 as Legal Advisor's fees could not be included in fixing the amount of costs. The learned Chief Justice dismissed the appeal ([1979] 2 M.L.J. 61) as he held (a) the letter of the C.P.I.B. constituted a formal complaint within the meaning of section 33(1) of the Accountants Act; (b) where no rules have been made to regulate the procedure to be followed during an inquiry, the Disciplinary Committee could lawfully exercise the disciplinary powers if it conducts the inquiry in accordance with the rules of natural justice; (c) in this case the charge contained particulars which gave the appellant adequate notice of the case against him to enable him a fair opportunity of answering it; and (d) the legal adviser's fees were correctly included in the costs being part of the costs "of and incidental to the inquiry." An appeal to the Court of Appeal was dismissed — See [1980] 1 M.L.J. 258. The appellant appealed to the Privy Council.

Held: there was no substance whatever in any of the four points taken before the Board and in the courts below and the appeal should be dismissed for the reasons given in each of the judgments below.

PRIVY COUNCIL APPEAL FROM SINGAPORE.

Paul Batterbury (*K.E. Hilborne* with him) for the appellant.

Michael Sherrard Q.C. (*Alan Wong* with him) for the respondent.

Lord Diplock (delivering oral judgment of the Board): In this appeal four points have been taken before this Board. They were taken in the courts below — before the Chief Justice and the Court of Appeal. Everything that possibly could be said in their favour has been said by counsel for the appellant. In their Lordships' view there is no substance whatever in any of the four points and for the reasons given in each of the judgments below their Lordships dismiss this appeal. The appellant must pay the costs of the appeal.

Appeal dismissed.

Solicitors: *Hilborne & Co.; Lee & Lee.*